

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DERRICK ADRIAN JOHNSON,)
#36454-177,)
Plaintiff,)
VS.) CIVIL ACTION NO.
)
UNITED STATES OF AMERICA,) 3:18-CV-1329-G (BK)
Defendant.)

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. Plaintiff filed objections, and the court has made a *de novo* review of those portions of the proposed findings and recommendation to which objection was made. The objections are overruled, and the court **ACCEPTS** the findings, conclusions, and recommendation of the United States Magistrate Judge.

It is therefore **ORDERED** that this action is summarily **DISMISSED** with prejudice for failure to state a claim and for seeking monetary relief against defendants who are immune from such relief. See 28 U.S.C. § 1915(e)(2)(B).

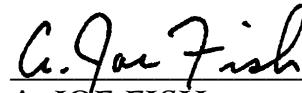
This dismissal will count as a “strike” or “prior occasion” within the meaning of 28 U.S.C. § 1915(g).

The court prospectively **CERTIFIES** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); FED. R. APP. P. 24(a)(3). In

support of this certification, the court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation. See *Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir. 1997). Based on the findings and recommendation, the court finds that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).* In the event of an appeal, plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of the Court, U.S. Court of Appeals for the Fifth Circuit. See *Baugh*, 117 F.3d at 202; FED. R. APP. P. 24(a)(5).

SO ORDERED.

February 25, 2019.



A. JOE FISH
Senior United States District Judge

* Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order. A timely notice of appeal must be filed even if the district court certifies an appeal as not taken in good faith.